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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,126	01/26/2001	David A. Maltz	10767/6	6697

39368 7590 07/08/2004

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EXAMINER	
KIANERSI, MITRA	

ART UNIT	PAPER NUMBER
2143	7

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/771,126	MALTZ ET AL.	
	Examiner	Art Unit	
	mitra kianersi	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *03* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 January 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 January 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *4*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claims 1-22 have been examined.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Fletcher et al. (US Patent No. 6,085,243).

1. As per claim 1, a method for collecting traffic data in a computer network, the method comprising: (a) determining a protocol with which to communicate with a network element of a plurality of network elements in a computer network, each of the plurality of network elements operating with a different protocol; (to work in accordance with a variety of standard network management protocols including SNMP, RMON, and RMON2 but is not limited to those environments. Abstract)
(b) collecting traffic data from the network element using the protocol determined in (a). (RMON includes fairly sophisticated packet filter and capture capabilities, which allowed a user to collect important network packet exchanges and analyze them at the management console. Col 4, lines 55-58)

2. As per claim 2, the method further comprising determining what traffic data should be collected from the network element. (In order to track network traffic and perform commands issued to it by the RMON Manager, a prior art probe operated in a promiscuous mode, where it read every packet transmitted on network segments to

which it was connected. The probe performed analyses or stored packets as requested by the RMON Manager. Col 4, lines 27-33) and (includes two primary components, the agents that reside in each ES to be monitored, and the collector/proxy that collects the network statistics and interacts with network management applications. Col 7, lines 61-64)

3. As per claims 3 and 14, the method further comprising: configuring the network element to collect the traffic data. (the probe would be configurable to provide a choice of views such that the user could select to have the probe combine the Proxy's data with its own to create one interface view or to present them as separate interfaces. Col 12, lines 18-23)

4. As per claims 4 and 15, the method further comprising analyzing the collected traffic data. (RMON includes fairly sophisticated packet filter and capture capabilities which allowed a user to collect important network packet exchanges and analyze them at the management console. Col 4, lines 55-58)

5. As per claims 5 and 16, the method further comprising: transmitting a result of the analysis to a storage device. (packet capture and store, and that to one degree or another, the inclusion of RMON analysis, col 12, lines 30-31)

As per claims 6 and 19, the invention wherein at least some of the network elements are same type devices from different vendors. (a wide variety of types of network devices including networks dramatically different from the specific examples illustrated in FIG.1, col 5, lines 58-60)

As per claims 7 and 20, the invention wherein at least some of the network elements are different type devices from different vendors. (a wide variety of types of network devices including networks dramatically different from the specific examples illustrated in FIG.1, col 5, lines 58-60)

As per claims 8 and 21, the invention wherein at least some of the network elements are different type devices from same vendors. (a wide variety of types of network devices including networks dramatically different from the specific examples illustrated in FIG.1, col 5, lines 58-60)

6. As per claims 9, a system for collecting traffic data in a computer network, the system comprising: a plurality of network elements in a computer network, each of the plurality of network elements operating with a different protocol; (to work in accordance with a variety of standard network management protocols including SNMP, RMON, and RMON2 but is not limited to those environments. Abstract)
and a server coupled with the plurality of network elements, the server operative to determine a protocol with which to communicate with a network element of the plurality of network elements and further operative to collect traffic data from the network element using the determined protocol. (RMON includes fairly sophisticated packet filter and capture capabilities, which allowed a user to collect important network packet exchanges and analyze them at the management console. Col 4, lines 55-58)
7. As per claims 10, the invention wherein the server operates on network topology information of the computer network. (General Network Topology 9, col 1, line 44)
As per claims 11, the invention wherein the server operates on a classification schema describing traffic data to be collected from the plurality of network elements. (RMON automatically tracks network traffic volume and errors for each ES MAC address seen on a segment and maintains a Host Matrix table of MAC address pairs that have exchanged packets and the traffic volume and errors associated with those address pairs. Col 4, lines 47-51)
8. As per claims 12, the invention wherein the classification schema comprises at least one of a rule for classifying traffic, a specification of types of traffic data to collect, a specification of a type of processing to be performed on collected traffic data, a mechanism by which traffic data is to be transmitted, and a location to which traffic data is to be transmitted. (Prior art Remote Monitoring (RMON) technology is a set of software and hardware specifications designed to facilitate the monitoring and reporting of data traffic statistics in a local area network (LAN) or wide area network (WAN). Col 4, lines 12-15)

9. As per claims 13, the invention wherein the server further comprises a plurality of protocol-specific modules, each of the protocol-specific modules being operative to

translate a request for traffic data into a form in accordance with a protocol of a selected network element. (an adaptor generally includes circuitry and connectors for communication over a segment and translates data from the digital form used by the computer circuitry in the IS or ES into a form that may be transmitted over the segment, which may be electrical signals, optical signals, radio waves, etc. col 2, lines 34-39)

10. As per claims 17, the invention wherein the plurality of network elements is located in a point of presence in the computer network, and wherein the server is located in the point of presence. (Probe Based. RMON probes often have more resources available than do management cards embedded in switches and hubs and are often strategically located throughout the network in a way which would make them prime candidates for collection points for dRMON. Col 12, lines 6-10)

11. As per claim 18, the invention wherein the plurality of network elements is located in a point of presence in the computer network, and wherein the server is located outside of the point of presence. (Probe Based. RMON probes often have more resources available than do management cards embedded in switches and hubs and are often strategically located throughout the network in a way which would make them prime candidates for collection points for dRMON. Col 12, lines 6-10)

12. As per claim 22, a system for collecting traffic data in a computer network, the system comprising: means for determining a protocol with which to communicate with a network element of a plurality of network elements in a computer network, each of the plurality of network elements operating with a different protocol; (to work in accordance with a variety of standard network management protocols including SNMP, RMON, and RMON2 but is not limited to those environments. Abstract)
and means for collecting traffic data from the network element using the determined protocol. (RMON includes fairly sophisticated packet filter and capture capabilities which allowed a user to collect important network packet exchanges and analyze them at the management console. Col 4, lines 55-58)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Kianersi whose telephone number is (703) 305-4650. The examiner can normally be reached on 7:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mitra Kianersi
06/21/2004

DAVID WILEY
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